

City of Las Vegas

AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JANUARY 24, 2008

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-25959 - APPLICANT: T-MOBILE USA, INC. - OWNER: VILLAGE CENTER, INC.

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for a Special Use Permit (SUP-25958) shall be required.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a Variance to allow a Residential Adjacency Setback of 138 feet where 240 feet is required for a proposed 80 foot wireless communication facility which will be of stealth design (Monopalm) on 7.64 acres, located at 910 North Rancho Drive. The proposed communication facility will be located on the northeast portion of a large commercial center. Because of the height of the antenna Residential Adjacency Standards must be met to provide a buffer to the adjacent residential uses. This use does not meet the required 3:1 setback from adjacent residential uses, thus, a Special Use Permit (SUP-25958) for the use is required and will be heard concurrently with this request. Staff recommends denial of the antenna because it is not compatible with residential developments in the surrounding area.

BACKGROUND INFORMATION

| <i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i> | |
|---|---|
| 01/22/97 | The City Council approved a request for a Use Permit (U-139-96) on property located at 1002 north rancho drive to allow the on premise sale of beer and wine in conjunction with an existing restaurant. |
| 07/27/00 | The Planning Commission approved a Request for a Special Use Permit (U-0094-00) to allow a service bar in conjunction with an existing restaurant at 1054 North Rancho Drive. |
| 09/06/01 | The Planning Commission allowed applicant's request to withdraw without prejudice a request for a Variance (V-0062-01) to allow 333 parking spaces where 382 parking spaces are the minimum allowed in conjunction with a proposed addition to an existing shopping center at 1000-1064 North Rancho Drive. |
| <i>Related Building Permits/Business Licenses</i> | |
| 1956 | Commercial center built. |
| <i>Pre-Application Meeting</i> | |
| 11/05/07 | Advised Variance and Special Use Permit required as communication facility did not meet Residential Adjacency Standards. |
| <i>Neighborhood Meeting</i> | |
| A neighborhood meeting is not required, nor was one held. | |
| <i>Field Check</i> | |
| 12/17/07 | The location for the 80 foot communication facility is in the northeast corner of an existing commercial center, next to a small shed on the property. On this back portion of the property are parking spaces, no cars parked in this area at the time of inspection. Area is littered with trash. It appears communication facility will occupy three parking spaces. |

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| <i>Details of Application Request</i> | |
|---------------------------------------|------|
| <i>Site Area</i> | |
| Net Acres | 7.64 |

| Surrounding Property | Existing Land Use | Planned Land Use | Existing Zoning |
|----------------------|--------------------------------------|------------------------------------|--|
| Subject Property | Commercial Center (Twin Lakes Plaza) | SC (Service Commercial) | C-2(General Commercial) |
| North | Single Family Residential | L(Low Density Residential) | R-1 (Single Family Residential) |
| South | Commercial Center | LI/R(Light Industry / Research) | C-1(Limited Commercial) |
| East | Single Family Residential | ML(Medium Low Density Residential) | R-PD8(Residential Planned Development - 8 DUA) |
| West | Single Family Residential | L (Low Density Residential) | R-1(Residence Estates) |

| <i>Special Districts/Zones</i> | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
|---|------------|-----------|-------------------|
| Special Area Plan | | | |
| Redevelopment Plan Area | X | | N |
| West Las Vegas Plan | X | | N |
| Special Districts/Zones | Yes | No | Compliance |
| Special Purpose and Overlay Districts | | | |
| A-O (Airport Overlay) District (105') | X | | Y |
| Trails | X | | Y |
| Rural Preservation Overlay District | | X | N/A |
| Development Impact Notification Assessment | | X | N/A |
| Project of Regional Significance | | X | N/A |

DEVELOPMENT STANDARDS

| <i>Residential Adjacency Standards</i> | <i>Required/Allowed</i> | <i>Provided</i> | <i>Compliance</i> |
|--|-------------------------|-----------------|-------------------|
| 3:1 proximity slope | 240 Feet | 138 Feet | N |
| Adjacent development matching setback | 5 Feet | 92 Feet | Y |

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ANALYSIS

The proposed location for the communication facility is within an existing commercial center built in 1956. Zoning of the 7.64 acre parcel is C-2 (General Commercial). The communication facility is a permitted use upon either an administrative approval or approval of a Special Use Permit. Because of the adjacent residential development and non-compliance with the Residential Adjacency Standards, this proposed location for a communication facility was deemed to be unsuitable for an administrative approval, and the applicant was directed to file a Special Use Permit application and a Variance application related to a residential adjacency issue.

The proposed stealth antenna is to be located on the northeast portion of the subject C-2 zoned parcel, against the existing block wall and will occupy three existing parking spaces. An eight foot block wall will surround the 407 square feet of space. Outdoor communication equipment and the antenna will be contained within this area. A chain link security cover will be placed over the top of the wall.

Design of the stealth communications facility is a monopalm at a height of 80 feet to the top of fronds. Title 19.08.060 states that a Wireless Communication Facility, Stealth Design, be separated from residential uses by proximity slope of 3:1. This requires the proposed 80-foot antennae to be located 240 feet from the adjoining R-PD8 (Residential Planned Development – 8 DUA) property. The submitted site plan indicates that a setback of 138 feet will be provided. A communication facility, 80 feet in height, which does not meet the required setback is not compatible with the adjacent residential community developments in the surrounding area; therefore denial is recommended.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so

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as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing an 80-foot tall wireless communication facility adjacent to single family residences. Alternative site selection would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 17

ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 461

APPROVALS 2

PROTESTS 2